

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV336629771US in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: July 31, 2003

Signature: _____

(Anthony Soljatic)

Docket No.: 220002060723

(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Michael J. MAHAN, et al

Application No.: 09/927,765

Group Art Unit: 1645

Filed: August 9, 2001

Examiner: T. Field

For: METHOD OF CREATING ANTIBODIES AND
COMPOSITIONS USED FOR SAME

RECEIVED

AUG 06 2003

TECH CENTER 1600/2900

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the restriction requirement set forth in the Office Action mailed July 1, 2003 (Paper No. 9), Applicants elect claims 1-25 ("Invention I") for continued examination.

However, Applicants respectfully traverse the Examiner's characterization of Invention I as comprising "a bacterium with a mutation in the DNA adenine methylase gene." (emphasis added). Applicants submit that independent claim 1 is directed to "bacteria with altered DNA adenine methylase activity." (emphasis added). A bacterium rendered non-pathogenic as a result of altered Dam activity is specified in the claims. A bacterium with a Dam mutation may (as specified in claim 2) or may not be a representative embodiment of bacteria with "altered DNA adenine methylase activity which altered DNA adenine methylase activity renders the bacteria non-pathogenic."

The Examiner further seeks a species restriction. Applicants respectfully traverse. Claim 1 is directed to a composition comprising bacteria with "altered DNA adenine methylase activity which altered DNA adenine methylase activity renders the bacteria non-pathogenic." The

Examiner's assertion that each set of bacterial immunogens will elicit a different immune response as the basis for species restriction is directed to subject matter not specified in the claims. Applicants respectfully request withdrawal of the species restriction.

In the event the Examiner does not find Applicants' arguments persuasive, Applicants will elect species "d" (*Salmonella*).

Applicants expressly reserve their right under 35 U.S.C. § 121 to file a divisional application directed to the non-elected subject matter specified in claims 26 and 31-34 during the pendency of this application, or an application claiming priority from this application.

CONCLUSION

Applicants request examination of the elected subject matter on the merits.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicant(s) petition(s) for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 220002060723.

Dated: July 31, 2003

Respectfully submitted,

By 
Shantanu Basu

Registration No.: 43,318
MORRISON & FOERSTER LLP
755 Page Mill Road
Palo Alto, California 94304
(650) 813-5995
Attorneys for Applicant